

AMENDED IN SENATE MAY 8, 2000  
AMENDED IN SENATE MARCH 9, 2000  
AMENDED IN ASSEMBLY MAY 25, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 481**

**Introduced by Assembly ~~Member Scott~~ Members Scott,  
Calderon, Keeley, McClintock, and Steinberg**

February 18, 1999

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~~An act to amend Section 10083 of, and to repeal and add Section 10085 of, the Insurance Code, relating to earthquake insurance. An act to add Section 790.16 to the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 481, as amended, Scott. ~~Earthquake—insurance~~  
*Insurers: unfair claims settlement practices: restitution.*

*Existing law defines certain activities as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance, including certain unfair claims settlement practices, and provides various penalties and remedies for engaging in those proscribed methods, acts or practices, to be enforced by the Insurance Commissioner.*

*This bill would provide that any settlement agreement entered between the commissioner and any person engaged in the business of insurance, in settlement of any matter in which the commissioner has determined that the person engaged in unfair claims settlement practices, shall provide*

*for restitution to the victims of those practices. This requirement would be applicable notwithstanding any other provision of law.*

~~Existing law provides that no policy of residential property insurance may be issued or delivered or, under certain circumstances, initially renewed in this state, unless the named insured is offered earthquake insurance, as specified, and provides that if this offer of insurance is not accepted, the insurer or any affiliated insurer shall be required on an every other year basis to offer earthquake coverage in connection with any continuation, renewal, or reinstatement of the policy following any lapse thereof, or with respect to any other policy that extends, changes, supersedes, or replaces the policy of residential property insurance.~~

~~This bill would provide that this requirement to offer earthquake insurance on an every other year basis shall not be construed to prohibit an insurer from offering earthquake coverage at any time the policy of residential property insurance is in effect.~~

~~This bill would also allow an insured who has a policy of residential property insurance in effect to request, at any time, the addition of earthquake coverage to that policy, and would require the insurer to offer that coverage, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~—yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 10083 of the Insurance Code is~~
- 2 *SECTION 1. Section 790.16 is added to the Insurance*
- 3 *Code, to read:*
- 4 *790.16. Notwithstanding any other provision of law,*
- 5 *any settlement agreement entered into pursuant to this*
- 6 *article or any other law between the commissioner and*
- 7 *any person engaged in the business of insurance, in*
- 8 *settlement of any matter in which the commissioner has*
- 9 *determined that the person engaged in unfair claims*
- 10 *settlement practices, shall provide for restitution to the*
- 11 *victims of the unfair claims settlement practices,*

1 *including, but not limited to, the policyholders of an*  
2 *insurer.*

3 ~~amended to read:~~

4 ~~10083. (a) The offer of coverage required by Section~~  
5 ~~10081 may be made prior to, concurrent with, or within~~  
6 ~~60 days following the issuance or renewal of a residential~~  
7 ~~property insurance policy. If the offer of coverage is~~  
8 ~~mailed to the named insured or applicant, it shall be~~  
9 ~~mailed to the mailing address shown on the policy of~~  
10 ~~residential property insurance or on the application. The~~  
11 ~~offer of earthquake coverage shall contain the following~~  
12 ~~language in at least 10-point boldface type:~~

13 ~~YOUR POLICY DOES NOT PROVIDE COVERAGE~~  
14 ~~AGAINST THE PERIL OF EARTHQUAKE.~~

15 ~~CALIFORNIA LAW REQUIRES THAT~~  
16 ~~EARTHQUAKE COVERAGE BE OFFERED TO YOU~~  
17 ~~AT YOUR OPTION.~~

18 ~~WARNING: THESE COVERAGES MAY DIFFER~~  
19 ~~SUBSTANTIALLY FROM AND PROVIDE LESS~~  
20 ~~PROTECTION THAN THE COVERAGE PROVIDED~~  
21 ~~BY YOUR HOMEOWNERS' INSURANCE POLICY.~~  
22 ~~THERE ARE EXCLUSIONS AND LIMITATIONS~~  
23 ~~SUCH AS OUTBUILDINGS, SWIMMING POOLS,~~  
24 ~~MASONRY FENCES, AND MASONRY CHIMNEYS.~~  
25 ~~THIS DISCLOSURE FORM CONTAINS ONLY A~~  
26 ~~GENERAL DESCRIPTION OF COVERAGES AND IS~~  
27 ~~NOT PART OF YOUR EARTHQUAKE INSURANCE~~  
28 ~~POLICY. ONLY THE SPECIFIC PROVISIONS OF~~  
29 ~~YOUR POLICY WILL DETERMINE WHETHER A~~  
30 ~~PARTICULAR LOSS IS COVERED AND, IF SO, THE~~  
31 ~~AMOUNT PAYABLE.~~

32 ~~THE COVERAGE, SUBJECT TO POLICY~~  
33 ~~PROVISIONS, MAY BE PURCHASED AT~~  
34 ~~ADDITIONAL COST ON THE FOLLOWING TERMS:~~

35 ~~(A) AMOUNT OF DWELLING COVERAGE:~~

36 ~~\_\_\_\_\_~~  
37 ~~(B) APPLICABLE DEDUCTIBLE: \_\_\_\_\_ IF~~  
38 ~~YOUR LOSS IS BELOW THIS AMOUNT, YOU MAY~~  
39 ~~NOT RECEIVE ANY PAYMENT FROM YOUR~~  
40 ~~COVERAGE.~~

~~YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR COVERAGE, THE INSURED VALUE OF YOUR COVERAGE, OR THE REPLACEMENT VALUE OF YOUR COVERAGE.~~

~~(C) CONTENTS COVERAGE: \_\_\_\_\_~~

~~IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE FOR THE DWELLING, YOU WILL NOT RECEIVE ANY PAYMENT FOR THIS COVERAGE.~~

~~YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE PURSUANT TO THIS COVERAGE.~~

~~(D) ADDITIONAL LIVING EXPENSES: \_\_\_\_\_~~

~~(E) RATE OR PREMIUM: \_\_\_\_\_~~

~~IF YOU DO NOT PURCHASE EARTHQUAKE COVERAGE WITHIN 30 DAYS FROM THE DATE OF MAILING OF THIS NOTICE, THIS OFFER WILL EXPIRE. HOWEVER, YOU MAY REQUEST TO PURCHASE EARTHQUAKE COVERAGE LATER, AS LONG AS YOUR RESIDENTIAL PROPERTY INSURANCE POLICY REMAINS IN EFFECT, BY CONTACTING YOUR INSURANCE COMPANY OR AGENT. YOUR INSURANCE COMPANY OR AGENT IS REQUIRED TO EXTEND AN OFFER OF EARTHQUAKE COVERAGE TO YOU WITHIN 60 DAYS OF RECEIVING YOUR REQUEST.~~

~~EARTHQUAKE COVERAGE SHALL BE EFFECTIVE ON THE DAY YOUR ACCEPTANCE OF THIS OR A LATER OFFER IS RECEIVED BY YOUR INSURANCE COMPANY OR AGENT.~~

~~(b) When the insurer, agent, or broker establishes delivery of the disclosure form by obtaining the signature of the applicant or insured, or when an insurer, agent, or broker provides the applicant with the disclosure form and the applicant does not return a signed acknowledgment of receipt within 60 days of the date it was provided, there shall be a conclusive presumption~~

1 ~~that the insurer, agent, or broker has complied with the~~  
2 ~~disclosure requirements of this section.~~

3 ~~(e) The offer may contain additional provisions not in~~  
4 ~~conflict with or in derogation of this section.~~

5 ~~(d) The commissioner may only approve~~  
6 ~~modifications to the language prescribed in subdivision~~  
7 ~~(a) if all of the following conditions are met:~~

8 ~~(1) The modifications are not in conflict with or in~~  
9 ~~derogation of any provision of this section or Section~~  
10 ~~10089.~~

11 ~~(2) The modifications are necessary to ensure that the~~  
12 ~~disclosure statement accurately reflects the coverage~~  
13 ~~actually provided by the policy being offered.~~

14 ~~(3) The modifications are strictly limited to necessary~~  
15 ~~changes so that the modified disclosure statement is~~  
16 ~~otherwise identical to the disclosure statement~~  
17 ~~prescribed in this section.~~

18 ~~(e) Use of the language prescribed by this section, or~~  
19 ~~modified language approved pursuant to subdivision (d),~~  
20 ~~shall constitute compliance with the requirements of~~  
21 ~~Section 10081 by an insurer subject thereto.~~

22 ~~SEC. 2. Section 10085 of the Insurance Code is~~  
23 ~~repealed.~~

24 ~~SEC. 3. Section 10085 is added to the Insurance Code,~~  
25 ~~to read:~~

26 ~~10085. (a) An offer to provide earthquake coverage~~  
27 ~~expires 30 days from the date of mailing of the offer.~~  
28 ~~Earthquake coverage shall be effective on the day that~~  
29 ~~the acceptance of the offer is received by the insurer or~~  
30 ~~agent.~~

31 ~~(b) Nothing in this chapter shall be construed to~~  
32 ~~prohibit an insurer from making an offer of earthquake~~  
33 ~~coverage at any time that a policy of residential property~~  
34 ~~insurance is in effect.~~

35 ~~(c) Notwithstanding any provision of this chapter or~~  
36 ~~Chapter 8.6 (commencing with Section 10089.5), an~~  
37 ~~insured who has a policy of residential property insurance~~  
38 ~~in effect may at any time request earthquake coverage to~~  
39 ~~be added to that policy. Within 60 days of the receipt of~~  
40 ~~that request, the insurer shall offer to add earthquake~~

1 ~~coverage to the policy. That offer, unless accepted, shall~~  
2 ~~expire 30 days from the date of mailing of the offer. The~~  
3 ~~earthquake coverage shall be effective on the date that~~  
4 ~~the acceptance of the offer is received by the insurer or~~  
5 ~~the agent of the insurer.~~

